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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,195	11/20/2003	David C. Racenet	1879 CON III	9798

7590 10/30/2007
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EXAMINER

NGUYEN, CAMTU TRAN

ART UNIT	PAPER NUMBER
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3772

MAIL DATE	DELIVERY MODE
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10/30/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/718,195

Applicant(s)

RACENET ET AL

Examiner

Camtu T. Nguyen

Art Unit

3772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-19 is/are pending in the application.
- 4a) Of the above claim(s) 14 and 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-13 and 16-19 is/are rejected.
- 7) ☒ Claim(s) 13, 16 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
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| <p>1) <input type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>10-15-2007</u>.</p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application</p> <p>6) <input type="checkbox"/> Other: _____</p> |
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DETAILED ACTION

Response to RCE

This Office Action is responding to applicant's RCE filed on 10-15-2007.

Claims 14 & 15 have been withdrawn from consideration as a result from a verbal restriction confirmed on December 5, 2005 with Mr. Michael Switzer. See Office Action mailed out December 28, 2005.

Claims 1-4 have been cancelled.

Claims 5-13 and 16-19 have been examined on the merits.

Claim Objections

Claim 18 is objected to because its recitation is identical to that of claim 12.

Claim 16 is objected to because its recitation, although not identical to claim 11, but has the same subject matter to that of claim 11, thus, appears to repeat claim 11.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 9 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described

Art Unit: 3772

in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, applicant's specification, as originally discloses, does not have support for the resilient material is at least bled-into the fabric.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 5-8, 10, 12, 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Stablein (DE 37 37 121 A1). Stablein discloses on Figures 1 & 2 a controllable sealing system for catheter and instrument insertion comprising sealing sleeve (2) having a passage receiving an instrument therethrough (see Figure 1c). Stablein further discloses the sealing sleeve (2) is made of soft and flexible but tear-resistant material (natural or synthetic or soft plastic) and a fabric material is used to reinforce sealing sleeve (2), see last paragraph of column 2. With regards to claim 10 reciting the sealing member having a hourglass shape, Figure 1b and 1c illustrating the sealing sleeve (2) having the hourglass configuration. Regarding claims 12 & 18 reciting the sealing member disposed in the housing, the Stablein reference discloses in Figure 2 the sealing sleeve (2) disposed in the housing chamber.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11, 13, 16, 17, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stablein (DE 37 37 121 A1) and further in view of Hu (U.S. Patent No. 5,463,010).

Stablein (DE 37 37 121 A1). Stablein discloses on Figures 1 & 2 a controllable sealing system for catheter and instrument insertion comprising sealing sleeve (2) having a passage receiving an instrument therethrough (see Figure 1c) except for the seal member to include a coating of material for reducing friction between the seal member and an instrument inserted through the seal member. Hu discloses and teaches the hydrocyclosiloxane membrane, a coating material for reducing friction between the seal member and the instrument used through the seal member. Therefore, it would have been obvious to one of ordinary skill in the art to have a coating material applied onto Stablein's sealing sleeve, as taught by Hu, as such would not only protect biomedical device but also provide lubrication when the instrument is inserted through seal member. Regarding claim 13 reciting the "zero seal", the Stablein discloses in Figure 1b the sealing sleeve (2) provides such seal in the housing chamber such that it would prevent the escape of insufflation gases in the absence of the instrument. Regarding claim 19 reciting the ring and the dampening element, the Stablein reference discloses in Figures 1a-1c the ring member secured to the sealing member and the dampening element disposed between the surface of the ring member and the surface the housing chamber.

Art Unit: 3772

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Camtu T. Nguyen whose telephone number is 571-272-4799. The examiner can normally be reached on (M-F) 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on 571-272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CT Nguyen
Camtu Nguyen
October 29, 2007

Patricia Bianco
PATRICIA BIANCO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

10/29/07